



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

37-950-W

SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
---------------	-------------	----------------------	---------------------

08/322,357 10/13/94 WOOLFORD

M 3616.69US01

KENT EXAMINER

35M1/0307

JOHN J GRESSENS  
MERCHANT GOULD SMITH EDELL WELTER  
AND SCHMIDT  
1000 NORWEST CENTER 55 EAST FIFTH ST  
ST PAUL MN 55101

ART UNIT PAPER NUMBER

3504

#14

DATE MAILED: 03/07/95

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on \_\_\_\_\_ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), \_\_\_\_\_ days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- ☐ Notice of References Cited by Examiner, PTO-892.
- ☐ Notice of Draftsman's Patent Drawing Review, PTO-948.
- ☒ Notice of Art Cited by Applicant, PTO-1449.
- ☐ Notice of Informal Patent Application, PTO-152.
- ☐ Information on How to Effect Drawing Changes, PTO-1474.
- ☐ \_\_\_\_\_

Part II SUMMARY OF ACTION

1. ☒ Claims 1-7, 9-16 and 25-36 are pending in the application.

Of the above, claims \_\_\_\_\_ are withdrawn from consideration.

2. ☒ Claims 8 and 17-24 have been cancelled.

3. ☐ Claims \_\_\_\_\_ are allowed.

4. ☒ Claims 1-7, 9-16 and 25-36 are rejected.

5. ☐ Claims \_\_\_\_\_ are objected to.

6. ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved; ☐ disapproved (see explanation).

12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

C. Kent

EXAMINER'S ACTION

Serial Number: 08/322,357

-2-

Art Unit: 3504

The following office action is in response to patent examination application SN 08/322,357 filed on 10/13/94.

This application is acknowledged to be a continuation of serial number 07/957,598, filed 10/06/92, now abandoned. Claims 1-7, 9-16 and 25-36 are pending on the merits.

**PROVISIONAL, OBVIOUSNESS DOUBLE PATENTING**

Claims 1-7, 9-16 and 25-36 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 and 22-34 of copending application serial number 08/056,986. Although the conflicting claims are not identical, they are not patentably distinct from each other because they claim the same subject matter.

This is a *provisional* obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

The obviousness-type double patenting rejection is a judicially established doctrine based upon public policy and is primarily intended to prevent prolongation of the patent term by prohibiting claims in a second patent not patentably distinct from claims in a first patent. *In re Vogel*, 164 USPQ 619 (CCPA 1970). A timely filed terminal disclaimer in compliance with 37 C.F.R. § 1.321(b) would overcome an actual or provisional rejection on this ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C.F.R. § 1.78(d).

Serial Number: 08/322,357

-3-

Art Unit: 3504

**SPECIFICATION - 35 U. S. C. 112 OBJECTIONS FIRST PARAGRAPH**

The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to provide an adequate written description of the invention and failing to adequately teach how to make and/or use the invention. The "second protrusion", claimed in claim 6, is not supported by the specification or, drawings.

**CLAIMS - 35 U.S.C. 112 REJECTIONS FIRST PARAGRAPH**

Claim 6 is rejected under 35 U.S.C. § 112, first paragraph, for the reasons set forth in the objection to the specification.

**ALLOWABLE SUBJECT MATTER**

Claims 1-5, 7, 9-16 and 25-36 appear to be allowable over the prior art of record. The prior art of record neither

Serial Number: 08/322,357


-4-


Art Unit: 3504

discloses nor teaches the claimed block having sides, a top surface and a bottom surface wherein each the side has an inset which extends fully from the bottom to the top surface, and further including a protrusion on the top surface adjacent to both the insets.

Any comments considered necessary by applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably **accompany** the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication should be directed to Christopher Kent at (703) 308-2497.

  
Christopher Kent  
March 3, 1995

  
CARL D. FRIEDMAN  
SUPERVISORY PATENT EXAMINER  
GROUP 3500